NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 9, 2005

11:06 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

May I ask everyone to please rise and join me in the Pledge of Allegiance to the Flag.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT MEIER: In the absence of clergy, may we each bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 8, the Senate met pursuant to adjournment. The Journal of Tuesday, June 7, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MEIER: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I wish to call up Calendar Number 994, Assembly Print 3454.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 994, by Member of the Assembly Bing, Assembly Print Number 3454, an act to amend the State Finance Law.

SENATOR FARLEY: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Robach's bill, Senate Print 1893, on 5/24/05.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: I now move that the Assembly Bill 3454 be committed to the Committee on Rules and then Senator Robach's Senate bill be restored to the order of third reading.

ACTING PRESIDENT MEIER: So ordered.

Senator Farley.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FARLEY: On behalf of the distinguished president, Senator Meier, Mr. President, I wish to call up your bill, Senate Print 2741, which was recalled from the Assembly, and it's now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 807, by Senator Meier, Senate Print 2741, an act to amend the Public Authorities Law.

SENATOR FARLEY: I now move to

reconsider the vote by which this bill passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FARLEY: Mr. President, I wish to call up Senator Spano's bill, Senate Print 4079, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 781, by the Senate Committee on Rules, Senate Print Number 4079, an act to amend the Tax Law.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which this bill passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President. I'd like to offer the following amendments to the Third Reading Calendar bills.

First of all, by Senator Larkin, Calendar 450, page 15, Senate Print 1398A;

Senator Spano, Calendar 1030, page 41, Senate Print 3743B;

Senator Skelos, Calendar 1246, page 54, Senate Print 1168;

Senator Skelos again, Calendar 1395, page 60, Senate Print 4708.

I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bills will retain their place on the Third Reading Calendar.

SENATOR BONACIC: Thank you, Mr.

President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Winner, I wish to call up Senate Print Number 3415, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1102, by Senator Winner, Senate Print 3415, an act to authorize.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: On behalf of Senator Golden, I wish to call up Print Number

5148A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1199, by Senator Golden, Senate Print 5148A, an act to amend the Vehicle and Traffic Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: On behalf of Senator Skelos, Mr. President, I wish to call up Print Number 3898, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number

672, by Senator Skelos, Senate Print 3898, an act authorizing.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: On behalf of Senator Skelos, I wish to call up Print Number 4644, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1111, by Senator Skelos, Senate Print 4644, an act authorizing.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: On behalf of Senator Skelos, I wish to call up Print Number 4556, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 950, by Senator Skelos, Senate Print 4556, an act to amend Chapter 564 of the Laws of 2004.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now offer

the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Skelos, I wish to call up Senate Print Number 4517, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 949, by Senator Skelos, Senate Print 4517, an act authorizing.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: On behalf of Senator Nozzolio, I wish to call up Print

Number 1567, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 478, by Senator Nozzolio, Senate Print 1567, an act to amend the Vehicle and Traffic Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: Mr. President, on behalf of myself, Senator Fuschillo --

ACTING PRESIDENT MEIER: Finally, something for yourself, Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

I hope that Senator Skelos gets it right, with all these amendments.

I wish to call up Print Number 4087, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 944, by Senator Fuschillo, Senate Print 4087, an act authorizing.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT MEIER: Thank you, Senator.

The Secretary will read the

substitutions.

THE SECRETARY: On page 53, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 6633A and substitute it for the identical Senate Bill Number 5026A, Third Reading Calendar 1237.

On page 62, Senator Leibell moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 6371 and substitute it for the identical Senate Bill Number 3263, Third Reading Calendar 1413.

On page 62, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 7348 and substitute it for the identical Senate Bill Number 4553, Third Reading Calendar 1416.

On page 62, Senator Flanagan moves to discharge, from the Committee on Health, Assembly Bill Number 4189 and substitute it for the identical Senate Bill Number 4893, Third Reading Calendar 1418.

And on page 63, Senator Leibell moves to discharge, from the Committee on

Cities, Assembly Bill Number 6467 and substitute it for the identical Senate Bill Number 5309, Third Reading Calendar 1423.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there is a Resolution 2216, by Senator Rath. It was previously adopted on June 1st. If we could have it read in its entirety at this time.

ACTING PRESIDENT MEIER: The Secretary will read Resolution 2216.

THE SECRETARY: By Senator Rath, Legislative Resolution Number 2216, congratulating 11-year-old Katie Brownell, who plays baseball in a boys Little League, upon the occasion of pitching a perfect game.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of

the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success and developing a sense of fair play and competition; and

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the State of New York who, by achieving outstanding success in athletic competition, have inspired and brought pride to their community; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to congratulate 11-year-old Katie Brownell, who plays baseball in a boys Little League, upon the occasion of pitching a perfect game; and

"WHEREAS, An all-star since she started playing baseball three years ago, Katie Brownell struck out all 18 boys who came to bat against her during a six-inning game in the Oakfield-Alabama Little League in what may have been the first perfect game by a girl in

Little League history; and

"WHEREAS, An avid baseball player since she was 6 years old, Katie Brownell also allowed only one hit and struck out 14 batters in five innings in her first outing of the season. Furthermore, she is a major threat at the plate, with a batting average of .714 after three games; and

"WHEREAS, Loyally and enthusiastically supported by family, fans, friends and the community at large, Katie Brownell has appeared on "World News Tonight," "Good Morning America" and "Cold Pizza," as well as in news segments on television stations and in newspapers across New York State and the country and met President George W. Bush at an event in Rochester; and

"WHEREAS, With her throughout have been her parents, Mark Brownell and Denise Bischoff, and her brothers, Jonathan and Joshua, all of whom feel privileged to be a part of her life and rejoice in her achievements; and

"WHEREAS, Sports competition instills the values of teamwork, pride and

accomplishment, and Katie Brownell has clearly made a contribution to the spirit of excellence which is a tradition of Little League; and

"WHEREAS, It is the sense of this Legislative Body that when individuals of such noble aims and accomplishments are brought to our attention, they should be celebrated and recognized by all the citizens of the great State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate 11-year-old Katie Brownell, who plays baseball in a boys Little League, upon the occasion of pitching a perfect game, and to wish her continued success in all of her future endeavors; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Katie Brownell."

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Mr. President, how do you start to congratulate someone who's done something that's perfect?

The resolution that we've just read -- and my constituent here in the gallery, Katie Brownell, of course congratulations is what we're here about today and what everyone has been saying to you ever since that day several weeks ago or maybe a month ago now that you struck out all 18 boys who came to bat against you during a six-inning game in the Oakfield-Alabama Little League, in what may have been the first perfect game by a girl in Little League history.

Katie, I want to tell you, for many reasons not only am I proud and happy for you, but you don't know the grief I've taken here from all these guys on the floor when their teams have beaten some of our Western New York teams.

But I have to say that my pride is far surpassing anything I would have anticipated, because, first of all, I don't recall that any of you has brought anyone up who had pitched a perfect game so far in my 11 years here in the State Senate. I think this may be the first time we've honored

someone who has pitched a perfect game.

And of course we congratulate not only you but your parents, Mark Brownell and Denise Bischoff; your coach, Jeff Sage; League Administrator Eric Klotzbach.

Oakfield-Alabama, a small town in Western New York, but a wonderful place for baseball, whether it's the Batavia Muckdogs that we're following or the Buffalo ball team or the Rochester ball team. We all like baseball in Western New York.

And I understand the other day Katie hit a home run, so she's not only good at pitching, she's good at batting.

And I hope, honey -- honey. Because you're like my 11-year-old granddaughter -- I hope as you continue to play baseball or take up other sports or go to other interests, someday you may pitch another perfect game, or you may end up with the piano and play a perfect concerto. You may bring home a perfect report card, which I'm sure everyone would hope that that would be one of the items.

Or you may serve in this

Legislature someday, and you may pass a perfect piece of legislation. That will be a first, I will tell you, if you pass a perfect piece of legislation here.

But no matter what it is you do or wherever your future takes you, you're going to be able to say that you were there and you did it and you had it all one time in your life. Very few people in their lives can ever say I was there, I was absolutely at the top of my game once.

So enjoy this, remember this. And on behalf of the whole State Senate and all the people of the State of New York, you make us very proud. Oakfield-Alabama, you make us very proud. Come back again next year when you've done it again, and we will do this all over again, because for sure you're a winner. And we're proud of you.

(Standing ovation.)

ACTING PRESIDENT MEIER: Katie, it's George Steinbrenner. He wants to talk to you.

(Laughter.)

ACTING PRESIDENT MEIER: The

resolution was previously adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I have a Resolution 2388 at the desk. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title.

THE SECRETARY: By Senator Skelos, Legislative Resolution Number 2388, commending Father Donald M. Baier for his 12 years of dedicated service as Pastor of Our Lady of Lourdes Church in Malverne, New York.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President,

if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 475, by Senator Trunzo, Senate Print 850, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 506, by Member of the Assembly Calhoun, Assembly Print Number 6823, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 563, by Senator Balboni, Senate Print 933, an act to amend the Family Court Act and the Domestic Relations Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 568, by Member of the Assembly DiNapoli, Assembly Print Number 5745, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 611, by Member of the Assembly Clark, Assembly Print Number 1794A, an act to amend the General Business Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

616, by Senator Sampson, Senate Print 1029, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 768, by Senator Saland, Senate Print 5021, an act to amend Chapter 698 of the Laws of 1996.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 873, by Senator Rath, Senate Print 4939, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 902, by Senator Padavan, Senate Print 4774, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 906, by Senator LaValle, Senate Print 5184, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 931, by Member of the Assembly Tonko, Assembly Print Number 329A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 978, by Senator Bonacic, Senate Print 5175A, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Member of the Assembly Morelle, Assembly Print Number 3426, an act to amend

the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1004, by Senator Alesi, Senate Print 5078, an act to amend Chapter 291 of the Laws of 2004.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 291 of the Laws of 2004.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1049, by Member of the Assembly Calhoun, Assembly Print Number 2645, an act authorizing the Village of Walden.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1055, by Member of the Assembly Canestrari, Assembly Print Number 787, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of

November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1056, by Member of the Assembly Lafayette, Assembly Print Number 2156, an act to amend the Vehicle and Traffic Law.

SENATOR VALESKY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1062, by Senator Libous, Senate Print 4058, an act to amend the Highway Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Saland, Senate Print 5349, an act to amend Chapter 147 of the Laws of 2001.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1096, by Senator Meier, Senate Print 5241, an act to amend the Family Court Act.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1103, by Senator Alesi, Senate Print 3584, an act authorizing the County of Monroe.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1104, by Senator Alesi, Senate Print 3586A, an act authorizing the County of Monroe.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1105, by Senator Alesi, Senate Print 3589A, an act to authorize the County of Monroe to convey.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1121, by Senator Little, Senate Print 5294, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1123, by Senator Morahan, Senate Print 5340, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1147, by Member of the Assembly Schroeder,

Assembly Print Number 8166, an act to amend Chapter 1 of the Laws of 2002.

SENATOR SEWARD: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1173, by Senator Meier, Senate Print 5229, an act to amend the Domestic Relations Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect December 1, 1996.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1192, by Member of the Assembly Sweeney, Assembly Print Number 1147, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1266, by Senator Skelos, Senate Print --

SENATOR SKELOS: Lay it aside for the day, please.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1276, by Senator Fuschillo, Senate Print 2728, an act to establish the Baldwin-West End Canal

repair and maintenance district.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1277, by Senator Fuschillo, Senate Print 2729, an act to establish the Baldwin-Grand Canal repair and maintenance district.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1298, by Senator Balboni, Senate Print 5374, an act authorizing the Village of East Hills.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1377, by the Senate Committee on Rules, Senate Print Number 5375, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1405, by Senator Trunzo, Senate Print 1684, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1406, by Senator Larkin, Senate Print 1736, an act to authorize the Town of New Windsor.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1407, by Senator Diaz, Senate Print Number 2234, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1408, by Senator Marcellino, Senate Print

2369, an act to require the New York State and Local Employees Retirement System.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1409, by Senator LaValle, Senate Print 2514, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect one year after the date on which it shall have become a law.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1410, by Senator Golden, Senate Print 2737, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1411, by Senator Spano, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1412, by Senator Larkin, Senate Print 2946, an act to provide for the classification of Louis M. Klein.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1413, substituted earlier today by Member of the Assembly Galef, Assembly Print Number 6371, an act authorizing Bryan R. Watson.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1414, by Senator Volker, Senate Print 3320, an act in relation to allowing Carol A. Meissner.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1415, by Senator Maziarz, Senate Print 4478, an act to amend the Civil Service Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1417, by Senator Hannon, Senate Print 4611, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1418, substituted earlier today by Member of the Assembly R. Diaz, Assembly Print Number 4189, an act to amend the Environmental Conservation Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Seward, Senate Print 4951A, an act in relation to granting.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1420, by Senator Leibell, Senate Print 4967, an act to authorize the Town of Yorktown.

ACTING PRESIDENT MEIER: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

The record should reflect there was also a home-rule message with regard to Calendar 1419.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1421, by Senator Flanagan, Senate Print 5128, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1422, by Senator Wright, Senate Print 5308, an act to amend Chapter 519 of the Laws of 1999.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1423, substituted earlier today by Member of the Assembly Parment, Assembly Print Number 6467, an act to amend the General City Law and the Town Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1427, by Senator Meier, Senate --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1428, by Senator Wright, Senate Print --

SENATOR SKELOS: Lay it aside for the day, please.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1429, by Senator Golden, Senate Print 5548, an act to amend Chapter 779 of the Laws of 1986.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the noncontroversial reading of the calendar.

SENATOR SKELOS: Thank you, Mr. President. If we could go to the controversial reading at this time.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of the calendar.

The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1056, by Member of the Assembly Lafayette, Assembly Print Number 2156, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Larkin, Senator Schneiderman has requested an explanation with regard to Calendar 1056.

SENATOR LARKIN: Senator Schneiderman, the question I presume you're going to ask is the relationship from what the City of New York has just come up with. They've come up with a sincere question.

They're going to reduce something to writing, and we will meet with them on Monday and we'll resolve it.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I think that Senator Larkin is demonstrating some psychic abilities here in divining what my question is.

Just to clarify --

SENATOR HANNON: Psychiatric.

SENATOR SCHNEIDERMAN: That's a different issue.

(Laughter.)

SENATOR SCHNEIDERMAN: The issue that was raised by the city which I believe

you were addressing is the city's concern that the Department of Motor Vehicles should be the primary agency responsible for identifying who is the insurer of a vehicle that is impounded and notifying the insurer rather than the overburdened police department.

Is that the issue that you're going to be clarifying with the city?

SENATOR LARKIN: Yes.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I'd like to thank Carnac the Magnificent for divining that from my intent.

Thank you.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will ring the bell. Members are asked to come to the chamber for a vote.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1056 are Senators Duane, Gonzalez, L. Krueger and Savino.

Ayes, fifty -- excuse me. Absent from voting: Senators Breslin and Parker. Also recorded in the negative --

ACTING PRESIDENT MEIER: Could we see the no votes again, please, the no votes on this calendar.

Could we ask members to take their seats when we're trying to conduct a vote.

THE SECRETARY: Those recorded in the negative on Calendar Number 1056 are Senators Duane, Gonzalez, Hassell-Thompson, L. Krueger and Savino.

Those Senators absent from voting: Breslin and Parker.

Ayes, 54. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Montgomery, why do you

rise?

SENATOR MONTGOMERY: Yes, Mr. President, I would just like the record to reflect that, being consistent, I would have been voting no on Calendar 616 had I been here on the consent calendar roll call. Thank you.

ACTING PRESIDENT MEIER: The record will so note.

THE SECRETARY: Calendar Number 1411, by Senator Spano, Senate Print 2892A, an act to amend the Election Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Spano, Senator Schneiderman has requested an explanation.

SENATOR SPANO: This is a very simple bill, Mr. President, one that says we will prohibit a polling place from having more than five election districts located in it. Outside of the City of New York.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I'd like to thank the sponsor and his coaching staff

for that response.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Just a second, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

The concern that some of us have with this piece of legislation -- which is to say that if you have a polling place today that has six election districts in it, that will have to be split up into two separate polling places in two separate locations.

The problem that some of us have -- and this, I believe, emerges out of some of the issues that came up in last year's election cycle -- is that the current state of the law, as demonstrated last year, is that if you go to the right polling place but vote in the wrong election district, your vote will still be counted. So a polling place that has six EDs, if you just get to the right building, your vote will be counted.

But if you start breaking them up and creating lots more polling places with only a few EDs each, everyone who goes to the

wrong polling place, the so-called "wrong church, wrong pew" voter, that person is disenfranchised. And that, I think, is the wrong way to go.

We should be moving towards trying to count every vote of someone who is a legitimately registered voter in a particular jurisdiction attempting in good faith to vote by going to a polling place.

This bill will actually have the effect of disenfranchising people. I think that we have the Help America Vote Act. This is the, you know, Hurt Americans Trying to Vote Act, in some respects. And I think that it is the wrong approach to the problem.

I think if we want to address the problem, we should do it by dealing with the issue of disenfranchisement for people who go in good faith to the wrong polling place and attempt to cast -- and cast their ballot and have that ballot accepted by the election inspectors. Again, anyone who is sent to a different polling place has no problem.

We're talking about the disenfranchisement of people who go to a

polling place and have their ballot accepted by an inspector. That's just wrong to disenfranchise those people. And this bill clearly will exacerbate that problem and create more disenfranchised voters.

So I suggest that we vote no and come up with a different approach to dealing with this problem.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dilan.

SENATOR DILAN: Mr. President, I believe there's an amendment at the desk. I ask that the reading of the amendment be waived, and I ask to be heard on the amendment.

ACTING PRESIDENT MEIER: Your amendment is at the desk. The reading is waived, and you're recognized for the purpose of explaining the amendment.

SENATOR DILAN: Thank you.

This amendment would give voters the benefit of the doubt. It would codify the Court of Appeals decision in Panio v. Sunderland and ensure that ballots cast in the

wrong election districts and at the correct polling place be counted.

It would also go further than that decision to clarify our notoriously muddy Election Law, which has been used to disenfranchise voters for what are essentially procedural mistakes. It says that if you cast your ballot in the wrong polling place but in the correct county, your vote is to be counted.

Let me share with you an op-ed from Journal News dated February 4, 2005, and quote: "We see no material difference between the voter who goes to the proper polling place but the wrong election district and the voter who goes to the improper polling place and of course the wrong election district.

"Given our abundance of technology and means for sharing information, we believe it is a ministerial error and an electoral embarrassment when poll workers do not or cannot direct voters to the proper location."

And I agree with that quote.

Let us take a stand and say that we're going to give the voters the benefit of

the doubt who are duly registered and who care enough about our political process, and have their vote counted. I urge my colleagues to join me today to ensure that in future elections, every vote is to be counted.

Thank you.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Brown, Connor, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

THE PRESIDENT: The amendment is not agreed to.

Is there any other Senator who wishes to be heard on this bill?

Then the debate is closed.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. I would like to speak on the

bill.

I would like to raise the point that there are so many issues in voter rights that we should be dealing with with provisional ballot procedures that we have almost none of in the State of New York.

With the fact that the real problem at polling sites -- and I think Senator Spano and I might agree that some of this experience comes from the 35th District -- is that we have poll sites without any information available to help voters determine where they're supposed to be voting or if they're in the correct location.

That we don't have enough training for our poll workers throughout the State of New York. That we've got voters who reasonably can be confused about where they're supposed to vote, especially if they haven't voted in a while or their location has moved, and that this bill does nothing to address this.

In addition, this bill conceivably costs our boards of elections significant amounts of money without, it's my

understanding, any discussion with boards around the state about their position on this. Because if they have to open far more polling sites and have far more monitors and have more machines, potentially, if they go down the road particularly of optical scanning machines, and if they've got to oversee an election process with an even larger number of sites that might not have access for the disabled, that might not have the materials that are available, that might not have enough people to get to those sites during the day to ensure that they're operating correctly, that this bill sends us in the reverse direction of where we should be going.

We've got a timeline, we have already failed to meet it, for HAVA. We've got so many issues we need to address legislatively and at the local level to ensure that voters find it easier to vote or ensure that when they go to vote they are allowed to vote and that their registration is recognized legally, that this proposal, while it might address some issues for some small specific areas, in fact, I would argue, is going to

create greater problems for the majority of New York.

But frankly, it's a one-house bill, so I doubt that it will have any impact because it won't move forward into law. But I wish we were discussing the real issues involved with improving our voter system and our voting day and polling site system here in New York, rather than one-house bills. And I'm sorry that our hostile amendments weren't accepted.

I'll be voting no.

Thank you, Madam President.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Spano, to explain your vote.

SENATOR SPANO: To explain my vote, Madam President. Just to clarify a

couple of things that were said.

I agree with Senator Krueger that there are some -- a number of other issues that we need to deal with as a part of Election Law reform, many of which will be discussed as we continue our discussions with HAVA. And with regard to training of election inspectors, that's certainly an issue that will be discussed, as well as finance, through the HAVA negotiations.

We have an additional bill that hopefully we'll address before the end of the session that will talk to the coordinator issue, so that if there are more than two, less than five election districts in one location, there will be required to be a coordinator there to -- so people know where they should go to vote.

To address the whole issue of the amendment as well, if we pass this bill and this is signed into law, we will not need to codify the Court of Appeals decision because the fact is that the "right church, wrong pew" people will know where to vote.

We will eliminate what is currently

happening across this state, and certainly in my district, where there's one location with 14 election districts, in one location.

Some of those election districts have three and four tables, more than one machine, two and three machines. Could you imagine the confusion at this one location when you have thousands of people trying to go in and vote?

So Senator Schneiderman wants to talk about disenfranchising. We are enfranchising voters, removing the confusion that exists out there right now. And to do anything more, such as was suggested by the minority amendment, would be an invitation for election fraud.

I vote aye.

THE PRESIDENT: You will be recorded, Senator Spano, as voting in the affirmative.

Senator Balboni, to explain your vote.

SENATOR BALBONI: Yes, Madam President. Anyone who has gone on election night to a polling place with more than one

machine knows firsthand the confusion that is associated with that exercise. You've got people coming back and forth saying what machine is it, what's the count, and you have people yelling back and forth. That's confusion.

The argument proffered by the minority is logically inconsistent, in that if you're concerned about right church, wrong pew, then you should support any type of limitation on the number of pews. That would be the way to solve this problem.

And as far as moving the whole process on in terms of electoral reform, we need more proposals out there, because the silence, particularly from the other side, is deafening.

I join in voting aye on this measure. Thank you.

THE PRESIDENT: Senator Balboni, you will be recorded as voting in the affirmative.

Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you,

Madam President.

THE PRESIDENT: You're welcome.

SENATOR SCHNEIDERMAN: I just want to clarify something, because I think that my last two colleagues have addressed issues that were not raised by Senator Dilan's amendment, really.

The issue here is not concerned about right church, wrong pew. If you go into a polling place and are confused and cast your ballot in the wrong election district, your ballot is still counted. You are not disenfranchised. So the effort to distract us on that issue I think is mistaken.

The concern here is that this legislation will increase the number of valid votes cast by duly registered voters attempting to exercise their right. Because it is not the case that if you go into the wrong polling place your vote will be counted.

So I think, with all due respect to my colleagues, we should be working on this further. I think the amendment was well-founded.

And I also would note, as Senator

Spano referred to HAVA, we currently do not have conference committees meeting on HAVA. While the Assembly is willing to reauthorize the conference committees, the leadership of this house is not. And I would suggest that that might be a place where we could put our energy if we want to advance the issue of reforming the election laws before this session is out.

I vote no.

Thank you, Madam President.

THE PRESIDENT: You will be recorded as voting in the negative on this bill.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1411 are Senators Andrews, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, C. Kruger, Little, Montgomery, Onorato, Oppenheimer, Paterson, Savino, Schneiderman, Serrano, A. Smith and Stavisky.

Absent from voting: Senator Parker.

Ayes, 43. Nays, 17.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1427, by Senator Meier, Senate Print 5502, an act to amend the Criminal Procedure Law and others.

SENATOR HASSELL-THOMPSON: Explanation.

THE PRESIDENT: Senator Meier, an explanation has been requested.

SENATOR MEIER: Thank you, Madam President.

This bill really represents one of the first attempts to significantly change the juvenile justice system in this state since the enactment of the Family Court Act itself over 20 years ago.

And it is undeniable, one can see it every day in everyday experience and in the daily news media, that certainly society has changed over those 20 years, and the nature and kinds of criminal activity engaged in by young people and juveniles has certainly changed. And this bill seeks to respond to

that.

Let me summarize it very briefly. It gives the Family Court the capacity to increase dispositions for juvenile offenders ages 13 to 16 who commit violent crimes, youthful offenders ages 16, 17, or 18 who commit violent crimes, and juvenile delinquents, who are not prosecuted as adults.

It expands the category of crimes for which juvenile delinquents can be prosecuted as adults and specifically addresses the area of permitting the court to address those who commit murder at the age of 12 as juvenile offenders.

One of the most important elements of this bill is that it mandates that every juvenile delinquent adjudicated as such receive some sort of sanction and particularly focuses on elements, if the child is 10 years of age or older, on some kind of restitution or community service.

It authorizes the Family Court, and gives them a tool that they presently don't have, to require parental participation as a condition of a disposition and particularly as

a condition of a sentence of probation. And I don't think anyone can doubt the merits of requiring that kind of participation, of involving the parent in the dispositional planning of a juvenile delinquent.

There are some procedural kinds of reform which deal with making juvenile delinquency proceedings more public. Under the existing Family Court Act, juvenile delinquency proceedings are presumptively public proceedings, but the court has great leeway to restrict those. This would restrict such closing of the courtroom to exceptional circumstances.

And it does require that we take a very systematic and studied look at the entire area of alternatives to incarceration, sets up a commission to look at those alternatives and to report back.

It is, I think, a balanced look at the Family Court Act. It institutes some much-needed changes and brings us into this 21st century with our Family Court Act to address some elements of our modern life that, like it or not, we do need to take a look at.

Thank you, Madam President.

THE PRESIDENT: Is there any other Senator wishing to be heard?

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam President. I think I'll just speak on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR HASSELL-THOMPSON: Thank you.

Last year, when this bill came before us, I gave you a very long, lengthy and in some instances I think perhaps technical dissertation on my concerns about this bill.

Suffice it to say that it is my opinion that there have been no changes in this bill from the perspective of concern that I raised that this is a criminal justice approach that's very heavy on incarceration and light to none on prevention.

I don't disagree with Senator Meier that many of the juvenile justice and our criminal -- not our criminal, but our Family Court rulings are archaic and need to be

remedied.

But I also caution us to continue to look at one factor. And that is that as we continue to look at lowering the age of incarceration of our young people, criminalizing activities and behaviors that heretofore -- and I'm not speaking about violent crimes, but rather those kinds of actions, initiatives that we have taken in this body this year, and in the five years that I've been here, to criminalize behavior that is not violent behavior but, rather, raising misdemeanors and raising so many of the juvenile crimes to felonies.

I cited a report that the American Bar Association, in association with the National Bar Association, put out that talks about justice by gender. And it's a gender bias report that I reference that the numbers of girls that continue to go into the juvenile justice system is increasing.

And even though I have read the statistics that talk about decreases or declines in the numbers of the cases since 1995, recidivism is not as great in many of

the areas as they ought to be.

For instance, our alternatives to incarceration does work. And according to the Juvenile Justice Coalition, in 2003, 46 percent of the youth released from the Department of Juvenile Justice youth jails returned to DJJ custody in the same year. In contrast, one of the largest alternative to incarceration programs had a recidivism rate of less than 17 percent.

And I guess I heard you, Senator Meier, talk about you felt that this was a good balance. But I don't see the balance. I don't feel it or see it in terms of how we connect the dots in relationship to how we budget money for our youth programs.

When we look at our summer youth issues and look at the numbers of summer youth jobs that continue to be cut -- and when we know that summer jobs were created for the sole purpose of finding positive ways to engage our young people during our summer months -- we don't, for some reason, seem to be talking the same language. Because in the absence of these jobs, criminal activities do

in fact increase during the summer months.

And we also don't take into consideration the fact that many of these young people are partly responsible for assisting in the economic empowerment of their own families.

I would just -- I'd like to be able to say that I agree with you and could vote for this bill in total, but there are too many unmet needs that continue. In these chambers we have the power to review and assess what we do so that, when we connect the dots and create a picture, we have participated in the prevention side as much as we have in the incarceration side.

Therefore, Madam President, I will be continuing to vote no.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR DUANE: I could be mistaken about this, but -- and if I am, then please forgive me. But I still am not aware

of any hearings that occurred around the state on this omnibus bill.

And if we're to overhaul the juvenile justice system, then I think we need to think really long and hard about what we're doing and that we need to bring in the experiences from other states around the nation, from district attorneys and also those who defend juveniles in our criminal justice system.

It's clear that early intervention is a more effective tool for stopping a young person who is headed down the wrong path. And yet until something terrible happens, we don't focus on that, which is the most important element of trying to save young people's lives before they're destroyed by their getting into criminal activities.

The same is true for adults as for young people, that our criminal justice system for young and old should be about rehabilitation and not just punishment. And I think that as legislators we need to be educators on that and not just be pandering to the public's worst fears, particularly as it

concerns young people. That we would risk throwing away even more young people I think is a travesty.

If we were really serious about trying to prevent young people from continuing in a life of delinquency and then going into a life of crime, then from the get-go -- and this is one of the elements of the bill, but it doesn't go far enough -- we would treat more young people as youthful offenders and not juvenile offenders. Youthful offenders can go to the Family Court.

In fact, I would say that we should reverse what has happened in this state, which makes us one of the most backward, I think, states in the nation, and that youthful offenders as well as juvenile offenders should all go to the Family Court first. And while the Family Court has more tools at its disposal than the criminal court, we need to give them even more tools to save and rehabilitate young people.

As I'm sure my colleagues know, right now if you are being prosecuted as a juvenile offender, you go to criminal court.

And so a young person goes before a judge that sees many, many adults who have perhaps entered into a life of crime. And I believe it's hard for those judges to see that a young person is different than an adult.

And that young people in our state should go before Family Court judges so that -- because those are the judges that actually are used to dealing with young people. And we need to give those judges more resources to save more young people's lives.

Now, I know that's a long way off, but it's something that could absolutely be considered if we did bring together experts from around the nation on the issue of juvenile justice.

And finally, I would just like to remind my colleagues, many of whom have children, and ask them to look at their 12-year-olds and really think about whether or not their 12-year-old child should be treated the same as an adult. I don't think so.

I'll be voting no on this, Madam President.

THE PRESIDENT: Senator

Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I will just speak on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR MONTGOMERY: Yes. First I want to remind my colleagues that I count at least five bills that are directly related to criminalizing children on our calendar today. So clearly this is a rush to the bottom as it relates to how we handle young people and what message we give them in terms of how we feel about them.

I see that this bill permits 14- and 15-year-olds to be prosecuted as adults for a number of designated felony offenses, including aggravated assault on a police or peace officer and et cetera, et cetera.

Now, 14- and 15-year-olds who come in contact with a police officer and somehow is angry, even if he yells at that police officer, that young person is going to be charged with assault. I know that because I have it happen over and over again for young people in my district.

And to say that we're going to now treat them as if they have committed a heinous crime I think is for us, as legislators, absolutely an abomination.

And to say that we're going to now deal with 12-year-olds -- a 12-year-old, in my estimation, is a baby. And we should look at children differently from the way that we look at seasoned criminals in our society.

But as my colleague has pointed out -- Senator Duane -- we have not had any hearings on this to really explore what the possibilities are for dealing with young people. We have not really dealt with alternatives to incarceration.

There is no funding in here for youth courts in our state that would be able to handle issues regarding youth in a very different way. There is no funding in here for a serious alternative-to-incarceration approach to young people.

So clearly this is simply a punishment and imprisonment bill. That's all that it is. It extends the sentences and creates additional sentences and it takes into

our criminal justice system now 12-year-olds. I suppose next year we'll go to 11-year-olds.

So, Madam President, I'm voting no on this. I think it is a terrible message as a legislature to send to constituents in our state, especially those of them who are most vulnerable, and that is our children.

Thank you.

THE PRESIDENT: Senator Sampson.

SENATOR SAMPSON: Would the sponsor yield for a couple of questions.

THE PRESIDENT: Senator Meier, will you yield for a question?

SENATOR MEIER: Of course, Madam President.

THE PRESIDENT: You may proceed with a question, Senator.

SENATOR SAMPSON: Through you, Madam President, what percentage of crimes have been committed by the youth within the last three years that causes for such -- the basis for such bills?

SENATOR MEIER: I want to be clear on your question, Senator. What percentage of crimes -- I lost you after that.

SENATOR SAMPSON: I'm sorry, let me be clear. The -- what percentage of crimes that have been committed by the youth within the last three years would cause for such -- the basis for such a bill?

SENATOR MEIER: Well, I mean, I don't have --

SENATOR SAMPSON: Let me try it --

SENATOR MEIER: I don't have numbers for you in terms of what percentage. And I'm not clear on what you're calling youth.

But I think this. You know, the argument is being posed here, I guess, that somehow we're, as a blanket matter, saying that we're going to start treating children like adults, that we're going to start treating 12-year-olds like adults.

Now, when my son and daughter were 12-year-olds, I didn't expect them to be treated like adults. I didn't permit them to drive. The State of New York doesn't permit them to vote. I didn't permit them to use alcohol or smoke cigarettes. But I sure as

heck didn't expect them to commit violent felonies, either.

And I must tell you, frankly, that one of the great conceits of modern time is that every single aspect of the human condition is subject to therapy. A lot of it is, and we need to concentrate on that and work on it. But what do you do when a 12- or 13- or 14-year-old unapologetically, unabashedly commits violent felonies, up to and including murder? And I think that is the reason for many of the provisions in this bill.

Now, it's also important to note that what we're talking about is children in those age categories being treated as juvenile offenders. And the juvenile sentencing structure, Madam President, as everyone well knows, is somewhat more stringent than that available for a juvenile delinquent, but not precisely the same -- indeed, somewhat less -- than that for people prosecuted purely as adults.

SENATOR SAMPSON: Through you, Madam President, would the sponsor continue to

yield.

THE PRESIDENT: Senator Meier, do you yield for a question?

SENATOR MEIER: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR SAMPSON: Well, how many 12-year-olds have committed assault on police officers?

SENATOR MEIER: Well, Senator, I don't know. But for the sake of argument, let's say it's not many. Let's say it's a hundred. What -- what --

SENATOR SAMPSON: Through you, Madam President, would the sponsor continue to yield.

THE PRESIDENT: Senator Meier, do you yield?

SENATOR MEIER: Of course, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR SAMPSON: The basis for this bill is based upon the antiquated Family

Court Act and also the increase of juveniles committing crimes.

But if we don't know the percentage of crimes that have been committed by 12-year-olds on police officers, or gang assaults in the first degree, then how can we talk about increasing the penalty with respect to 12-year-olds, 14-year-olds, basically juveniles and youths?

SENATOR MEIER: Well, Senator, I mean using such highly sophisticated research techniques as reading the newspaper, just this week, in the city of New York, a 9-year-old took a knife and murdered an 11-year-old. That is the kind of thing that seems to be becoming more and more commonplace.

And you mention the whole idea or the whole notion of gang activity. And we know from talking to prosecutors out there and criminal court judges, Family Court judges, that some people who engage in gang activity will deliberately go out and recruit people who are below an age where they could be prosecuted as adults and recruit them to carry out various activities, whether it's running

drugs or whether it's committing assaulting or even murders. And those are the kinds of situations that I think this is meant to address.

Now, earlier when I said this was a balanced bill, one of the things that it does say that we need to do is to take a very extensive look at alternatives to incarceration.

It is also balanced in terms of bringing into the mixture some people who really, frankly speaking, don't count for much in the present juvenile justice system, and that's victims, in terms of involving them in the dispositional phase.

But although -- you know, if you want to ask me a series of questions about how many 12-year-olds have committed murder over the last year or committed assaults or so forth, I'm -- I'm frankly not going to be able to give you those statistics. But we do know that it's there and that it is certainly something that is unfortunately much more present than it was 20 years ago.

SENATOR SAMPSON: Through you,

Madam President, would the sponsor continue to yield for a question.

THE PRESIDENT: Senator Meier, will you yield for another question?

SENATOR MEIER: Yes, Madam President.

THE PRESIDENT: You may proceed with a question.

SENATOR SAMPSON: From the mayor to the governor, they talked about how crime is on the decline in our communities. And when looking at -- it's not only good to look at alternatives to incarceration; I would like to know what recommendations are within this bill with respect to alternatives for incarceration when dealing with the juveniles. If any.

SENATOR MEIER: Well, the bill contemplates a number of things, Madam President.

For example, the present Family Court Act does not in every instance make provision for restitution or community service. This bill does that.

The present Family Court Act does

not give the Family Court judge extensive authority to require the involvement of a parent in a dispositional phase as a condition of probation. This bill does that. And, I think, might give a judge in some instances the tools to say, Okay, maybe we'll try to work out some kind of conditional disposition here. Conditioned on community service, perhaps restitution, perhaps some kind of program involving the parent. And then, if that fails, only at that point consider incarceration.

So those are some of the things that this bill does look at.

Now also, outside the context of this bill, really, the idea that the State of New York doesn't invest in preventive services is really not one that's entirely accurate.

For example, in the budget that we just passed we increased, in just one program area, we increased by some $10 million the amount of money that will be spent on the Summer Youth Employment Program. We're going to spend $25 million as opposed to the $15 million that we spent last year.

So I think there are also some things transpiring outside the four corners of this bill.

SENATOR SAMPSON: Through you, Madam President --

THE PRESIDENT: Senator Sampson.

SENATOR SAMPSON: -- would the sponsor yield for one last question.

THE PRESIDENT: Senator Meier, will you yield for a final question?

SENATOR MEIER: Of course, Madam President.

THE PRESIDENT: You may proceed with a final question, Senator Sampson.

SENATOR SAMPSON: Through you, Madam President. In the bill it talks about giving access, giving the police officers or peace officers access to juvenile delinquent records.

Don't they have access already to juvenile delinquent records if individuals are applying for jobs as police officers or peace officers?

SENATOR MEIER: Give me a moment while I confer with learned counsel here.

They have access only on a limited kind of basis. They can gain access to juvenile records when -- if the individual, for example, were to apply actually to become a police officer himself or herself.

But in terms of whatever relevance it may have to a case under investigation, I don't believe they have access now.

SENATOR SAMPSON: Through you, Madam President, will the sponsor yield for just a follow-up question. I don't understand something he just said.

THE PRESIDENT: Senator Meier, will you yield for another question?

SENATOR SAMPSON: Post-final question.

SENATOR MEIER: The last was the penultimate question, and this is the final question.

THE PRESIDENT: You may proceed, Senator.

SENATOR SAMPSON: When you say through investigations, what do you mean? Investigations in employment, or investigations in a police matter? What do

you mean by investigations?

SENATOR MEIER: Well, let me be clear on your question. Are you asking -- two separate issues here.

Are you asking about a background investigation for, say, government employment --

SENATOR SAMPSON: Yes.

SENATOR MEIER: That's what you're asking about.

SENATOR SAMPSON: Yes.

SENATOR MEIER: The answer is yes, then.

But not for criminal investigations. A criminal investigator would not have access to the records of the JD adjudication.

SENATOR SAMPSON: Thank you, Madam President.

THE PRESIDENT: The debate is closed.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. Thank you, Madam President. If the sponsor would please yield, through you.

THE PRESIDENT: Senator Meier, will you yield?

SENATOR MEIER: Yes, Madam President.

THE PRESIDENT: You may proceed with a question.

SENATOR LIZ KRUEGER: What's the financial impact of this bill on the juvenile justice system?

SENATOR MEIER: Madam President, the financial impact of this bill could conceivably show up in two areas.

One would be the increased responsibility on the part of probation departments to do some dispositional planning. But I'm sure that's a cost that everyone on both sides of the aisle would gladly bear, because that includes the enhanced responsibility to look at alternatives to incarceration, parental involvement, community service and restitution.

Now, many of these things, depending on how well a particular probation department is staffed, could probably be handled by existing staff, but it might

require more time.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR LIZ KRUEGER: Thank you.

I have to disagree with my esteemed colleague on his analysis. I believe that the cost of this bill would be exorbitant to the state system. And I'm not arguing that one should make a decision on a bill exclusively on its cost factors.

But again, in disappointment that we haven't had hearings around the state on such an omnibus proposal, I would also argue that we have failed to even start to evaluate the economic cost to the state and local governments of moving this legislation.

Since in fact in this legislation we would be increasing the penalty and length of stay in jail for juveniles at a cost, it appears, of $130,000 a year to have a juvenile in the jail system, at least in New York City, and we mandate in this bill specific increased timelines for various categories of felony, in

this bill we mandate up to five years of post-release supervision, that's got to have an enormous cost on our supervision, probation post-prison system.

We are shifting younger and younger people into a formal criminal court system -- and I'll get back to that in a minute -- that obviously has increased costs up and down the road.

This is an expensive bill. I can't tell you a number either; I haven't done an analysis. But I would argue that since this is a Governor's program bill, that he should have submitted with it an economic analysis of how much this was going to cost and should have also submitted, for the record, why he was pushing this bill in the year 2005, the same year that during his own budget speech at the beginning of 2005 he talked proudly about the dramatic reduction in the crime rate among youth. He pointed out that the crime rate for those under age 16 declined by 36 percent between 1995 and the year 2001.

He also eliminated 290 beds from the OCFS facilities because (a) there was a

decreased crime rate among juveniles, and (b) he was hopefully supporting expansion of alternative to incarceration and community-based incarceration for youth, because it seemed to be working.

And again, if we'd had hearings on the bill, we might have heard from experts who were pointing out that in fact alternative models are working and are more cost-effective. And that actually in the 21st century we've learned a lot about what works and what doesn't work with young people and crime, and what you can do to ensure that they -- even if they start off the wrong direction, that they can be brought back, they can in fact be rehabilitated, the damage done in bad situations for young children in homes can be reversed with the right kinds of services.

And in fact while I appreciate the example of a murder -- excuse me, a stabbing, a 9- and an 11-year-old involved in a stabbing in the newspaper, that's no way to make public policy. That's just a horrendous story that hits the front page of the dailies, no doubt

without any explanation of what actually led up to that.

And so I will also rise to say that we should not be treating children as adults in the criminal court system, and it is frightening and disturbing that we would propose going down to age 12 for treating children as adults in our criminal system.

There are good things in this bill. Because it's an omnibus bill, there are pieces of this that I think all of us could comfortably agree with. There are certainly justifications for changes made to the Family Court system and the processing system and authorizations of different categories.

Again, a bill this large, a bill that claims to rewrite a set of laws that haven't been changed in 23 years, is exactly the kind of bill we should be bringing in the experts. We have a Family Court system in New York City filled with people who are knowledgeable about what needs to be done. We have people who have studied this in detail. There are think tanks who have put out research, analysis on what works and what

doesn't work in juvenile justice and in rehabilitation and alternatives to incarceration.

We have -- on the floor of this Senate, I have heard my Republican colleagues -- I have listened carefully as Senator Volker one day argued for the recognition of a second chance for people who have made a mistake and that that shouldn't follow them the rest of their life and that there's a reason to have record seals and opportunities given, particularly for the foolishness of youth in some situations. I think Senator Volker may remember his eloquent argument in favor of that.

And yet in this bill we go in the opposite direction.

So there are too many wrong things in this bill. There is no analysis in this bill of the very complicated proposals -- again, I believe that if Governor Pataki brought this to the Legislature and asked us to pass this this year, there is so much more work that should have been done before this was submitted to us. There is something in

here everyone should have a problem with, as there are things in this bill that many of us would agree with.

I'll be voting no. I hope my colleagues will vote no. But more importantly, because this bill is a one-house bill, I hope that next year we will spend the time, both houses, throughout the state, in conference and in coordination with each other, having hearings, listening to the experts, going over the studies at the national level and state by state of what's working.

This won't work for us. I hope you'll vote no.

Thank you, Madam President.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Back several years ago I used to do assigned-counsel work, and I'd get involved with defending a lot of people in different circumstances, and many young people. And I just want to recount one incident that I think is pretty illustrative and I think supports

this type of approach.

There was a young man who -- not young man, he was a young child who had a habit of doing a lot of burglaries. And he was able to do those burglaries really with impunity, because every time he'd commit one it would go before the Family Court and little if anything would ever occur.

The thing that I remember most about that case, and I will never forget, is when he committed his next burglary and he happened to be 16 years of age. And I went to visit him to discuss the issue of bail, and he was not only upset but he was indignant with the fact that he was being held in jail. How could this happen? This isn't the way it works. The system doesn't work this way. How can this happen to me?

And I explained to him he now had reached the magic age of 16, and now he's going to be treated like an adult and the rules are different.

And from that point forward, I always wondered whether or not we've got our system backwards. Maybe the way the system

should work is really give a message and maybe a serious penalty early on, before the second, third and fourth offense, to the point of a comfort level that future offenses aren't going to have any consequences.

So I support this bill because I think it does just that. It gives more tools for that young person -- and not only to protect the public, but also to send a message earlier on that there are consequences that maybe save some of these young people from repeated criminal-type activity.

So I'm going to vote aye.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 105. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Hassell-Thompson, to explain your vote.

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam President.

One thing that I would like to make clear, in case there is any lingering doubt, I do believe that when juveniles commit serious crimes that they do have to be punished.

However, it still does not make sense to me to increase the sentences across the board for juveniles. Nor does it make sense to continue to lower the age at which youth can be dealt with as adults without providing sufficient prevention programs.

Each year the Governor's budget cuts funding and services for our most needy youth. Year after year we have to fight to restore money to the Summer Youth Employment Program. Services to runaway and homeless youth, youth development and delinquency prevention and especially delinquency prevention programs are continually underfunded.

Our investment in after-school and prevention programs are not sufficient to keep our children safe and in preventing children from becoming involved in the juvenile justice system in the first place. Therefore, I will continue to vote no.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I commend Senator Meier for bringing this to this house. There's a tremendous need to reform an antiquated Family Court system.

And I also share the concerns of Senator Duane, Senator Ruth Hassell-Thompson, Senator Krueger, Senator Montgomery about some of the problems with this bill.

But their concern really shouldn't be as great as it is, because this bill is not going anywhere. There's no -- there's no conference committee set up. There's no hearings that have been held. We've wasted our -- in many respects wasted our time here today.

We've wasted our time because there's not a process that leads to a conclusion where something goes on the Governor's desk for signature. There's no participation. There's no involvement of both

houses.

I'll do everything I can in the Assembly to work to get people to come up with bills that two houses can look at, that's acceptable to everybody. But that hasn't happened in my nine years here. And unless and until it does, this place will be dysfunctional.

I vote aye.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator Breslin.

Senator Meier, to explain your vote.

SENATOR MEIER: Thank you, Madam President. I'd love to explain my vote.

With all due respect to all of my colleagues, I have not wasted my time here today. This is an important idea that needs to be discussed.

And you know what this harkens back to? This harkens back to Jenna's Law, that we had to pass in this chamber several times until the other body had to be shamed into doing something about this situation.

The comment was made that the fact that a 9-year-old killed an 11-year-old is not the reason to make public policy. It's a good reason to make public policy, I think, when children commit murders, when gangs recruit children to commit violent crimes, knowing that they can't be charged or punished to any degree that will deter them from doing it furthermore. I think it's a good reason to make public policy.

And there's something else I want to mention, because I think it needs to be on the record. I think the record will reflect that I might have been the only person in this debate who talked about victims. And if a 12-year-old murders you, guess what? You're still dead. That's the balance that we need in this debate: What about the victims?

Madam President, I vote aye.

THE PRESIDENT: Senator Meier, you will be recorded as voting in the affirmative on this bill.

Senator Young.

SENATOR YOUNG: Thank you, Madam President. To explain my vote.

I want to commend Senator Meier for his leadership in this issue. And not only does it harken back to Jenna's Law, but it also harkens back to Penny's Law that I fought for for several years in the State Assembly, that this house passed year after year. And it increased penalties for juvenile killers, 14- and 15-year-olds who just take people's lives wantonly.

And, you know, it's distressing to me to hear some of my colleagues talk about the fact that juveniles should be treated lighter, that they can be rehabilitated, that this is a waste of time. It is not a waste of time.

As Senator Meier rightfully pointed out, there are victims and there are victims' families whose lives are forever changed and impacted and destroyed by these juvenile killers. It is not a light matter.

And you talk to the families of people like Penny Brown, who was killed by a 15-year-old on Mother's Day in 1998 -- or 1999; she was raped and she was strangled.

Or you talk to the families of

people like Derrick Robie, a beautiful 4-year-old who was killed by a 13-year-old -- sodomized, bludgeoned, strangled by a 13-year-old.

Or you talk to the family members of Jennifer Bolender, from Niagara Falls, who was stabbed more than 44 times by 14- and 15-year-old brothers.

These are not light crimes. And you know what? The killers in these cases were well-known to the juvenile justice system. And maybe if we had gotten tougher in this state beforehand, we could have saved lives.

So I think that this bill is an extremely important bill. It's not a waste of time. And what we've got to do, instead of saying we're going to sit down because this is a waste of time, we have to stand up and say this is important to the citizens of this state, because we are going to save lives and save victims if we pass this legislation.

I vote yes.

THE PRESIDENT: Senator Young, you will be recorded as voting in the

affirmative on this bill.

Senator Parker, to explain your vote.

SENATOR PARKER: To explain my vote, Madam President.

First, I want to thank Senator Meier for his vision and his leadership to bring this bill to the floor and have us have this important debate. I think that all of us are profoundly struck when we hear of murders amongst young people and juvenile crimes in particular.

I however want to respectfully disagree on the modality which we are choosing today to try to attempt to solve it. I think that increasing penalties do not necessarily lead to prevention. I'm not clear that this 9-year-old is thinking: I may go to jail for a significant amount of time if I do this murder.

If in fact we want to help our young people, then we need to be looking at ways to prevent these murders before they happen. And I don't think that, you know, the criminal justice process is that manner.

We need to be having -- and we haven't had this yet, and this isn't the first time I've said this. We need to be increasing programs for things like after-school programs. We need to be, you know, increasing the dollars that our schools have. In fact, I don't know, let's do CFE. And let's just figure out what putting another $19 billion into the school system, first in New York and then in high-needs districts around the state -- let's experiment. Meaning that we're going to try to, you know, solve problems about preventing these problems, giving young people places to go after school.

If you want to stop gangs, Senator Meier, I will work with you to put money into antigang programs around the state. Because the reality is that if we go back to the Giuliani administration, when everybody agreed that Mayor Giuliani did a great job in decreasing crime, look at the numbers. Youth violence went up at the same time that overall crime was going down.

Why? Because at the same time that we were increasing police, we got rid -- we

consolidated, in the city, the youth programs with community development. We got rid of -- many of the JV programs in high schools were eliminated or significantly reduced. We got rid of music, art and dance in the schools.

We need to go back to full-fledged education and making sure that young people have places to go beyond school. We need to make sure that our communities have programs in them so that young people have alternatives to the things that they're doing like playing video games that desensitize them to the kind of violence that we're now seeing in our communities.

Let's stop juvenile murder. Let's stop juvenile violence. But the way we stop that is by making sure we are creating alternatives for our young people instead of violence.

I vote nay.

THE PRESIDENT: You will be so recorded, Senator, as voting in the negative.

Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam

President.

No one said that there shouldn't be consequences for a child performing a bad act. No one here, I don't think, has ever said that they don't care about what happens to the victim of violent crime. Of course we all feel that way.

There are even, as some of my colleagues have said, some very good things in this omnibus bill. However, there are also some very bad things in this omnibus bill.

If a child does something wrong, of course there should be consequences. But I think what many of us are trying to say is that we believe that in addition to consequences there should be rehabilitation, that there is a way for young people to be redeemed.

Many of the cases that have been raised here, of the most heinous kinds of things that a child has done, I don't believe that they've performed those things or done those things without any warning. So really, if we invested a little bit more in child protective services instead of just focusing

on that when something terrible happens, well, then maybe we'd be able to prevent some of these terrible things from happening and get children into -- out of bad environments or into better services at an earlier age, to prevent any violence.

And again, a 12-year-old is not an adult. Should there be consequences for a 12-year-old? You bet there should be consequences for a 12-year-old. But a 12-year-old is not a 30-year-old. They're different. We cannot just lightly say they should be treated as an adult.

No one in this body that has a 12-year-old child I don't believe thinks that their 12-year-old child should be treated as an adult. And that means that if they don't think their child should be treated as an adult, then another person's child shouldn't be treated as an adult either. Because a 12-year-old is not an adult.

Thank you, Madam President.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator Duane. I assume that's your vote?

SENATOR DUANE: Yes.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1427 are Senators Andrews, Connor, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Parker, Paterson, Sabini, Sampson, Schneiderman, Serrano, A. Smith and Stavisky. Also Senator Malcolm Smith.

Ayes, 43. Nays, 18.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the controversial calendar.

SENATOR SKELOS: Thank you, Madam President.

Is there any further business at the desk?

THE PRESIDENT: Yes, there is, Senator. We have motions.

Senator Little.

SENATOR SKELOS: Before the members leave, there will be a meeting of the

Rules Committee in the Majority Conference Room.

THE PRESIDENT: There will be a meeting of the Rules Committee in the Majority Conference Room immediately.

SENATOR SKELOS: We will report the bills but not take them up today.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Madam President, I wish to call up my bill, Print Number 4069A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1350, by Senator Little, Senate Print 4069A, an act to amend the Public Officers Law.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

Senator Little.

SENATOR LITTLE: Madam President, on behalf of Senator Wright, on page 63 I offer the following amendments to Calendar Number 1424, Senate Print Number 5413A, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR LITTLE: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Please recognize Senator Hassell-Thompson.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Point of information, Madam President. I don't think that I heard my name as voting no on the last bill.

THE PRESIDENT: And you explained your vote, and I said at the end of that you would be recorded as voting in the negative.

SENATOR HASSELL-THOMPSON: Right. But in the negatives I didn't hear my name.

THE PRESIDENT: You are correct.

The Secretary will make sure the record is corrected, Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could just stand at ease pending the report of the Rules Committee.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 12:58 p.m.)

(Whereupon, the Senate reconvened at 1:07 p.m.)

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT SALAND: Senator Seward.

SENATOR SEWARD: Yes, Mr. President, if we could return to reports of

standing committees, I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT SALAND: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 3339, by Senator Padavan, an act to amend the Retirement and Social Security Law;

3745, by Senator Oppenheimer, an act to reopen;

3981, by Senator Larkin, an act to authorize;

4052, by Senator Golden, an act to amend the Penal Law;

4169, by Senator Skelos, an act to amend the Tax Law;

4236, by Senator Hannon, an act to amend the Criminal Procedure Law;

4523, by Senator Leibell, an act to amend the Soil and Water Conservation Districts Law;

4896, by Senator Flanagan, an act to amend the Public Officers Law;

4962A, by Senator Johnson, an act to amend the Tax Law;

5023, by Senator Alesi, an act to amend the Retirement and Social Security Law;

5129A, by Senator Flanagan, an act to amend the Public Officers Law;

5196, by Senator Nozzolio, an act to amend the Executive Law;

5197, by Senator Nozzolio, an act to amend the Executive Law and others;

5252, by Senator Johnson, an act to amend the Tax Law;

5379, by the Senate Committee on Rules, an act to amend the Civil Service Law;

5451, by the Senate Committee on Rules, an act to amend the Workers' Compensation Law;

5463, by the Senate Committee on Rules, an act to amend the Labor Law;

5509, by Senator Young, an act to amend the Education Law;

5512, by the Senate Committee on Rules, an act to amend the Public Officers Law;

5514, by Senator DeFrancisco, an

act to amend the New York City Civil Court Act and others;

5517, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

5523, by Senator Nozzolio, an act to amend the Executive Law;

5539, by Senator Volker, an act to amend the Criminal Procedure Law;

And Senate Print 5575, by Senator Volker, an act to amend the Criminal Procedure Law.

All bills ordered direct to third reading.

ACTING PRESIDENT SALAND: Senator Seward.

SENATOR SEWARD: Mr. President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT SALAND: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SALAND: Nay?

(No response.)

ACTING PRESIDENT SALAND: The

Rules report is accepted.

SENATOR SEWARD: Any further business at the desk?

ACTING PRESIDENT SALAND: There is none.

SENATOR SEWARD: Okay. With no further business, I announce that the Senate will adjourn until Tuesday, June 14, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT SALAND: On motion, the Senate stands adjourned until Tuesday, June 14, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 1:11 p.m., the Senate adjourned.)